

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Andre Brewer,

Petitioner,

v.

Warden, FCI Edgefield,

Respondent.

C/A No.: 4:22-cv-1896-SAL

ORDER

This matter is before the court for review of the December 9, 2022, Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b)(1)(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). [ECF No. 24.] In the Report and Recommendation, the Magistrate Judge recommends dismissing this case for failure to prosecute, *id.* at 1–2, or, in the alternative, granting Respondent’s motion for summary judgment for failure to exhaust, *id.* at 3–8. Attached to the Report was a notice advising the parties of the procedures and requirements for filing objections to the Report. [ECF No. 24-1.] Neither party filed objections, and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to

accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 24, and incorporates the Report by reference herein. Accordingly, this action is **DISMISSED** for failure to prosecute pursuant to Fed. R. Civ. P. 41(b), and Respondent’s motion for summary judgment, ECF No. 20, is terminated as **MOOT**.

IT IS SO ORDERED.

February 14, 2023
Columbia, South Carolina

s/ Sherri A. Lydon
United States District Judge